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**DIGEST OF OTHER RECENT VIRGINIA DECISIONS.****Supreme Court of Appeals.**

Note.—In this department we give the syllabus of every case decided by the Virginia Supreme Court of Appeals, except of such cases as reported in full.

**DARLING v. CITY OF NEWPORT NEWS.**

June 18, 1918.

[96 S. E. 307.]

**1. Eminent Domain (§ 2 (10)\*—State Control of Navigable Waters—Grant of Privileges.**—The power of the state over the public waters is perpetual, not exhausted by one exercise, and all privileges granted in public waters are taken subject to the exercise of that power for the public good, and the grantee of a privilege cannot complain that the exercise of such power constitutes the taking of private property for public use.

[Ed. Note.—For other cases, see 5 Va.-W. Va. Enc. Dig. 69; 10 Va.-W. Va. Enc. Dig. 342.]

**2. Fish (§ 7 (2)\*—Oyster and Clam Beds—Lease—Limitation of Rights.**—The General Oyster Law (Acts 1910, c. 343) §§ 6, 9, providing oyster beds may be leased from the state for planting and propagating oysters “subject only to the right of fishing above said bottom,” confers only the right of planting and propagating oysters, and does not withdraw, limit, or curtail any other public or private right.

[Ed. Note.—For other cases, see 10 Va.-W. Va. Enc. Dig. 621.]

**3. Fish (§ 7 (2)\*—Oyster and Clam Beds—Lease—How Construed.**—Leases of oyster beds by the state, being in derogation of common or public rights, are to be strictly construed against the grantee, who takes only what is granted specifically or by necessary implication.

[Ed. Note.—For other cases, see 10 Va.-W. Va. Enc. Dig. 621.]

**4. Fish (§ 7 (2)\*—Pollution of Navigable Waters.**—The lessee from the state of tidal beds below low-water mark under Acts 1910, c. 343, providing for leasing of oyster beds, takes subject to Act 1916, c. 46, providing for examination of oyster planting grounds to discover polluted areas and prohibit taking oysters therefrom, and riparian owner's drainage rights, and Acts 1908, c. 349, authorizing construction of city sewers and the natural right of drainage into the sea.

[Ed. Note.—For other cases, see 10 Va.-W. Va. Enc. Dig. 621.]

Sims, J., dissenting.

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\*For other cases see same topic and KEY-NUMBER in all Key Numbered Digests and Indexes.

**Error to Circuit Court of City of Newport News.**

Bill by Frank W. Darling against the City of Newport News. Demurrers to the original and amended bills sustained, and both bills dismissed, from which plaintiff brings error. Affirmed.

*Jones & Woodward*, of Hampton, and *J. Winston Read*, of Newport News, for plaintiff in error.

*J. A. Massie*, of Newport News, for defendant in error.

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**HUNTER v. BURROUGHS.**

June 13, 1918.

[96 S. E. 360.]

**1. Physicians and Surgeons (§ 18 (4)\*)—Declaration—Sufficiency.**

—In an action for malpractice in the diagnosis of eczema treatment with X-rays and salves, a count alleging that defendant did not possess and apply reasonably sufficient knowledge and experience, care, and skill to anticipate and foresee the probable effect which the application of the X-ray treatment, as used by him upon plaintiff's legs and ankles, would produce, and to apply reasonably proper and appropriate prescriptions, medicines, and remedies thereto, after using the same, in order to prevent them from being burned and the flesh and skin, to which said X-ray was so applied, from being destroyed, and in order to prevent ulcers, sores, and other injuries from resulting therefrom, but, on the contrary, by reason thereof did fail to reasonably anticipate and foresee the probable effect which said treatment would produce, and by reason thereof did fail to apply reasonably proper and appropriate medicines, preventatives and remedies thereto, after the same had been used and employed by him, to prevent the skin and flesh to which said X-ray treatment was applied from being destroyed, and to prevent ulcers, sores, and other injuries resulting therefrom, was sufficient on demurrer.

[Ed. Note.—For other cases, see 11 Va.-W. Va. Enc. Dig. 205.]

**2. Pleading (§ 41\*)—Sufficiency in General.**—A declaration which informs defendant of the nature and character of the demand against him and states such facts as will enable the court to say, if the facts are proven as alleged, whether they establish a good cause of action, is sufficient on demurrer.

[Ed. Note.—For other cases, see 11 Va.-W. Va. Enc. Dig. 217, 239.]

**3. Pleading (§ 11\*)—Statement of Details.**—Allegations which descend into statements of details of proof are unnecessary.

[Ed. Note.—For other cases, see 11 Va.-W. Va. Enc. Dig. 218.]

**4. Pleading (§ 315\*)—Bill of Particulars.**—If a declaration give defendant partial, but not complete, notice of the nature and character of plaintiff's claim, a bill of particulars may be required.

[Ed. Note.—For other cases, see 2 Va.-W. Va. Enc. Dig. 377.]